

**MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

July 12, 2011 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, July 12, 2011 at 7:00 p.m. in the Council Chambers at City Hall.

PRESENT: Mayor Robert A. Mullinax, Mayor Pro Tem Anne Stedman, Council Members Wayne Dellinger, Mary Bess Lawing, Bill Lutz, and Robert C. Abernethy, Jr.

ABSENT: Council Member Tom Rowe

STAFF: City Manager Todd Clark, City Attorney Larry Pitts, City Clerk Amy S. Falowski, City Department Heads, and members of the Management Team.

ITEM 1: CALL TO ORDER – MAYOR ROBERT A. MULLINAX:

Mayor Robert A. Mullinax welcomed everyone, and called the meeting to order.

ITEM 2: OPENING – COUNCIL MEMBER ROBERT C. ABERNETHY, JR.

Council Member Robert C. Abernethy, Jr. provided the invocation and led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE June 21, 2011 REGULAR MEETING AND THE BUDGET WORKSHOP MINUTES FROM MAY 19TH, 26TH, AND 31ST:

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Bill Lutz, it was unanimously RESOLVED:

That the Minutes of the June 21, 2011 Regular City Council Meeting and the Budget Workshop Minutes from May 19th, 26th, and 31st be – APPROVED.

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS:

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mary Bess Lawing, it was unanimously RESOLVED:

That Consent Agenda be – APPROVED.

- A. **Consideration of Proclamation – National Independent Retailers Month – July, 2011**
- B. **Consideration of Proclamation –Recreation and Parks Month - July, 2011**
- C. **Sewer Adjustments**

(Proclamations are hereby referenced and on file in the office of the City Clerk)

ITEM 5: **Public Hearing**

A. Consideration of Rezoning Application – 2011-02 Southern Equipment Company

Mayor Mullinax opened the Public Hearing, as scheduled and advertised, on the consideration of a rezoning application made by Southern Equipment Company for property located at 2307 East 20th Street from EM-1 Exclusive Manufacturing to an M-1, General Manufacturing District.

Mr. Sigler explained that the request is to rezone approximately 4.53 acres from EM-1 to M-1 in order to allow more uses that the current EM-1 will allow. Mr. Sigler stated that the site has been vacant for close to ten years and that two buildings exist in the middle of the parcel.

Mr. Sigler further explained that the proposed request is consistent with the 2011 Core Area Plan which recommends industrial uses. The specified parcel is located in the Core Area Industrial District, which is delineated in the Economic Development section of the Core Area Plan.

Mr. Sigler stated that the subject property has been zoned EM-1, Exclusive Manufacturing since the adoption of the 1982 citywide zoning map, and that prior to this date, the 1966 zoning map classified the property as Exclusive Industrial.

Mr. Sigler stated that there would be minimal impact on the surrounding transportation network. The average daily traffic counts on East 20th Street have stayed relatively constant over the last two decades ranging from 6,100 to 6,400 between 1992 and 2005.

Mr. Sigler stated that city water, sewer, and electric are on site, and that a copy of the application is attached for reference.

Mr. Sigler stated that at its June 28, 2011 meeting the Planning Commission voted three to one to Recommend denying the requested rezoning of 2307 East 20th Street from EM-1, Exclusive Manufacturing to an M-1 General Manufacturing District.

Mayor Mullinax asked if there was anyone present that would like to speak. No one appeared and Mayor Mullinax CLOSED the Public Hearing.

Council Member Robert C. Abernethy, Jr. stated that he is under the impression that the business wants to use the space as warehousing and that it is already zoned for that from what he can tell.

Council Member Bill Lutz asked if the rezoning would make the property easier to sell. Mr. Sigler stated that Southern Equipment Company thinks that it would.

No action was taken.

B. Consideration of Project Amendment – Target CDBG Project

CDBG Project Administrator Sherry Long stated that this request is a proposed Project Budget Amendment Form for the CDBG Target Distribution Center project which is still active.

Ms. Long explained that the purpose of the original CDBG Project was to provide water and sewer to the Target facility. The City was fortunate to have received excellent bids on the project and as a result has \$111,604.67 remaining in the project. Ms. Long stated the CDBG project did not have an electrical line item and staff is seeking Council authorization to submit the proposed revision to the NC Dept. of Commerce for the purpose of creating a new line item for electrical improvements. She explained that the amendment proposes to reallocate funds from the existing water line item in the CDBG Project Budget to create the new electrical line item.

Ms. Long stated that specifically staff is planning to submit the cost of street lighting improvements along with a request to fund the NESHAPS modification expenses related to the two generators located on site. She stated that in order to do so, the CDBG Project Budget, which the NC Dept. of Commerce uses for funding purposes, must be revised to reflect the proposed activity, (in this instance, electrical), and the amount to be moved from within the approved Project Budget.

Mr. Long emphasized that it should be noted that this is **not** a capital project budget ordinance amendment as was recently submitted to Council for consideration, rather this is a CDBG Project Budget Revision for the purpose of gaining the NC Dept. of Commerce's approval to use funds for electrical purposes.

Ms. Long stated that if council takes action to authorize staff to submit the proposed revision, staff will be coming back to Council at a future date for a separate Capital Project Budget Ordinance Amendment to appropriate these funds according to the appropriate line items and any remaining budgetary/accounting cleanup that may be necessary.

Mayor Mullinax asked if there was anyone present that would like to speak. No one appeared and Mayor Mullinax CLOSED the Public Hearing.

Mayor Pro Tem Anne Stedman asked if \$20,000 would be enough to cover the cost of the lighting. Ms. Long stated that it would be.

Council Member Robert C. Abernethy, Jr. stated that the upgrade to the generators is a good thing. Council Member Mary Bess Lawing agreed and stated that this is a very good way to spend this money.

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That Project Amendment – Target CDBG Project be – APPROVED.

ITEM 6: COMMENTS FROM THE PUBLIC: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):

Mayor Robert A. Mullinax asked if there was anyone present that would like to make any comments concerning non-agenda items.

No one appeared.

ITEM 7: **OLD BUSINESS:**

A. Report on Swimming Pool

Recreation Director Sandra Waters stated that the City Council agreed at the May 3, 2011 Council Meeting to appropriate \$42,600 from the General Fund to operate the swimming pool for the remainder of the 2011 fiscal budget.

Ms. Waters stated that the report before Council outlines attendance, revenues, hours of operation, and marketing strategies. Ms. Waters stated that the pool officially opened on Monday, June 13, and that during the month of June the pool was operational 16 out of 17 eligible days and closed one day due to rain.

Ms. Waters explained that the pool is open to the public Monday thru Saturday from 1:00 – 6:00 p.m. and that as requested by Council, Sunday has been set aside for rentals. She stated that one party was scheduled during June but was cancelled due to inclement weather.

Ms. Waters stated that according to Information Services Director Jason Clay, twenty people have used the free city wi-fi while at the pool, and that water aerobics classes started Monday the 11th and that there were 19 participants.

Mayor Mullinax asked where children could take swim lessons in the area, and Ms. Waters stated that starting in August the City of Newton would be providing lessons. Mayor Mullinax stated that he would like to see lessons start in June next year.

Council Member Mary Bess Lawing said that she has visited the pool several times this year, and that on one occasion she was told by a patron that she had taken her family to another pool, but decided to come back to Newton Pool because it was so enjoyable.

Mayor Mullinax commended Ms. Waters and staff on their advertisement of the pool and for all their hard work.

ITEM 8: **NEW BUSINESS:**

A. Presentation of NCAMES/ElectriCities Safety Award

Director of Public Works and Utilities Wilce Martin stated that at the annual North Carolina Association Municipal Electric Systems (NCAMES) meeting, the City of Newton Electric Division received a Safety Award. This award recognizes the Division for having no lost time injuries while performing Electric System Operations during the entire 12 months of 2010. Mr. Martin stated that this is quite an accomplishment with the type of work and hazards that the electric crew is exposed to every day.

ElectriCities Senior Vice President of Operations Roy Jones presented the Safety Award to Electric Division Manager Doug Wesson and Director of Public Works and Utilities Wilce Martin. Mr. Jones stated that working around electricity, especially high voltage lines and equipment can be dangerous and any accident involving electricity is potentially life threatening. As evidenced by this award, the City's crews are extremely safety conscious and both. He

explained that due to Mr. Martin and Mr. Wesson's leadership the Electric Division safety program is strong and effective.

Mr. Martin stated that under the direction of Doug Wesson, one supervisor, five linemen and two-meter readers maintain 125 miles of distribution lines, two delivery stations, 4,800 poles, 11 peak shaving generators, and read 4500 electric meters as well as 6000 water meters every month. Members of the electric crew have approximately 125 years of combined experience in electric distribution.

Mr. Martin stated that the City's staff has been working very hard to improve system reliability through tree trimming efforts, fuse coordination, GPS/GIS system mapping, generator operations and improvements to the city's SCADA system. The employees in this division should be commended for their successful efforts in providing these and other services in a safe and efficient manner.

Mayor Mullinax commended the department and told them to keep up the good work.

B. Consideration of Petition to Prohibit Parking on N Deal Avenue During School Hours

Police Chief Don Brown stated that Kevin Campbell (Principal, Newton-Conover High School) has requested that the city consider prohibiting parking on the 1500 block of N. Deal Ave. during school hours.

Chief Brown stated that there are problems with the Students parking on the street even though there is more than adequate parking in the student parking lot and that some of the students that have previously parked on N. Deal Ave. have been observed engaging in drug use and sexual acts. The fact that the vehicles parked on this particular street cannot be seen clearly from any location in close proximity to the school building makes it very difficult for the administration and school resource officer to monitor the activities of the students in the vehicles. Chief Brown stated that additionally, the vehicles are parking off school grounds which could also limit the authority of the school administration when dealing with the behavior of the students. He explained that these acts are a concern of the citizens residing on N. Deal Ave, the school administration and law enforcement.

Chief Brown stated that in an attempt to reduce nuisances for the residents of the 1500 block of N. Deal Ave., and reduce the unwanted and unacceptable activities of subjects parking on said street, "no parking" during specified times should certainly deter such activity. He explained that there are seven homes contained in the 1500 block of N. Deal Ave. five of which have signed a petition to prohibit parking on the street from 7:00 am to 3:00 pm Monday thru Friday. One of the two that did not sign the petition could not be contacted after thirteen tries, and the second did not wish to sign due to the fact that they have frequent company that park on the street.

Chief Brown recommended that City Council adopt Ordinance 2011-19 to prohibit parking on both sides of N. Deal Ave. from West 15th St to West 16th St between the hours of 7:00 a.m. and 3:00 p.m. Monday through Friday.

Council Member Bill Lutz asked if residents would still be able to park on the street during these hours. Chief Brown stated that they would not be allowed to.

Council Member Wayne Dellinger stated that he knows that there has been a problem there, but would like to know if there is another way to prohibit the students from parking there without hurting the residents. Chief Brown stated that students would go there before school, and then go to the student parking lot. Mayor Mullinax asked if the area is patrolled, and Chief Brown replied that it is as much as possible.

Council Member Mary Bess Lawing stated that it would seem from the petition that the majority of residents would like to see this Ordinance adopted.

Mayor Mullinax stated that this is not a Public Hearing, but that he would like to open the floor to anyone present that would like to comment on this proposed Ordinance.

Mr. Robert (Red) Reitzel stated that he felt like a petition from the Police Department was the same as coercion. He stated that he thought the school should take care of their own problems with students.

Mr. Robert Reitzel, Jr. stated that he was worried that his visitors would not have anywhere to park, and he felt like the Officer that came around with the petition left the impression that residents would not be ticketed if they parked on the street during these hours. He said that he felt like this would be selective enforcement and he did not agree with it. He explained that he would like to find some middle ground on the issue.

Mayor Mullinax asked if Mr. Reitzel if he didn't think the hours of 8:00 a.m. to 3:00 p.m. were middle ground, and stated that this is a tough situation.

Council Member Wayne Dellinger asked if 8:00 a.m. to 12:00 p.m. would work. He also asked if there was a fine for parking in a no-parking zone. Chief Brown stated that the fine is \$10.

Newton-Conover High School Principal Kevin Campbell stated that the school wants to be a good neighbor and that these are problems that need to be addressed by the Police Department. He stated that the high school has added 65 parking spaces and that there is now adequate parking. He stated that a 7:00 a.m. – 9:00 a.m. and 1:00 p.m. – 3:00 p.m. parking limit may work.

Council Member Anne Stedman asked if the students were required to have a parking permit. Mr. Campbell said that they were required to have one.

Upon motion duly made by Council Member Bill Lutz, seconded by Council Member Robert Abernethy, it was unanimously RESOLVED:

That the Ordinance – Prohibiting Parking on both sides of N. Deal Ave from West 15th St to West 16th St between the hours of 7:00 a.m. and 3:00 p.m. Monday through Friday be – POSTPONED until the August 2, 2011 meeting.

ITEM 9: CITY MANAGER'S REPORT:

City Manager Todd Clark reported on the following:

- Recognized the following employees for achievement:

Fire Department

James R. Martin – A.S. – Fire Protection Technology with High Honors

Randy Walker – A.S. – Fire Protection Technology with High Honors

Police Department

Lt. Mark Beal – A.S. – Criminal Justice from Stanly Community College

Electric Operations

Jeff Cochrane – Certification – Electrical Journeyman/Lineman

Finance/Purchasing

Ed Epley – Certification – Local Government Purchasing Officer

Public Works Director and Electric Utilities Division Manager Doug Wesson both stated how proud they are of Jeff Cochran, and that it takes a lot of hard work and a lot of time to achieve this certification.

Fire Captain James R. Martin and Battalion Chief Randy Walker also thanked the Mayor and Council for the financial assistance and support that they received from the city to achieve their degrees.

ITEM 10: QUESTIONS AND COMMENTS FROM MAYOR AND COUNCIL:

Mayor Mullinax asked if there were any questions or comments from City Council.

There were none.

ITEM 11: CLOSED SESSION TO CONSULT WITH THE CITY ATTORNEY – G.S. 143-318.11 (A) (3):

The Mayor, Council, City Attorney, City Manager, Planning Director, and City Clerk met in the Council Chambers for the discussion of a legal matter. No action was taken.

Upon motion duly made by Council Member Wayne Dellinger, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED: to leave closed session and return to open session at 8:27 p.m.

Mayor Mullinax called the meeting to order.

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mary Bess Lawing, it was unanimously RESOLVED:

That Ordinance 2011-19 – Project Budget Ordinance Amendment for the 2004 Community Development Block Grant (Moretz Industrial Access Road Economic Development Project) be – ADOPTED.

(Ordinance 2011-19 is hereby referenced and on file in the office of the City Clerk)

ITEM 12: **ADJOURNMENT:**

There being no further business, the meeting – ADJOURNED at 8:15 p.m.

Robert A. Mullinax, Mayor

Amy S. Falowski, City Clerk